

**ZB# 93-20**

**Toyota of Newburgh**

**48-2-6.2**

#93-20 - Toyota of Newburgh, Inc.  
12 ft. front yard - addition

Prelim.

June 14, 1993

Need Copy of:

- ① Deed & map
- ② Title Report same
- ③ Fees: ① 150.00 4 hrs  
② 250.00 4 hrs
- ④ Photos.

~~Ross Wingstovitz~~  
of Tectonic Don  
Benue

~~Enrico Sign~~

~~Enrico Sign~~

Notice to Submit on 4/24/93.  
Signing of App.

Public Hearing:

July 12, 1993.

Area Variance

Approved

\$ 257.96 does paid

Ch.

# 26276

11/1/93

MADE IN U.S.A.

NO. R753 1/3

ESSELTE

Oxford®

TOWN OF NEW WINDSOR  
555 Union Avenue  
New Windsor, NY 12550

# GENERAL RECEIPT

13441

Received of

*Toyota of Newburgh*

\$ *150.00*

*One Hundred Fifty and 00/100*

DOLLARS

For

*Joining Board # 93-20*

DISTRIBUTION

FUND	CODE	AMOUNT
<i>CH# 34511</i>		<i>150.00</i>

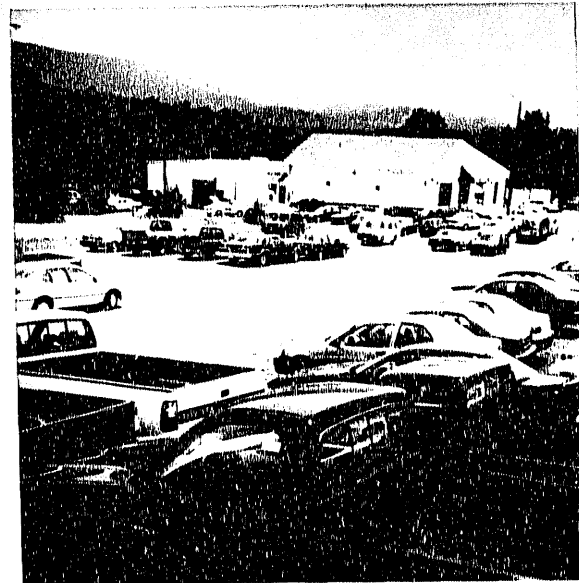
By

*Pauline M. Thompson*

*Town Clerk*

Title

© WILLIAMSON LAW BOOK CO., VICTOR, N.Y. 14564

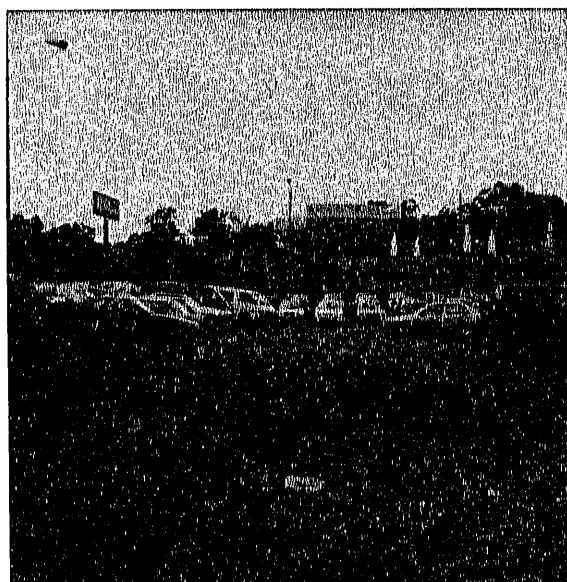
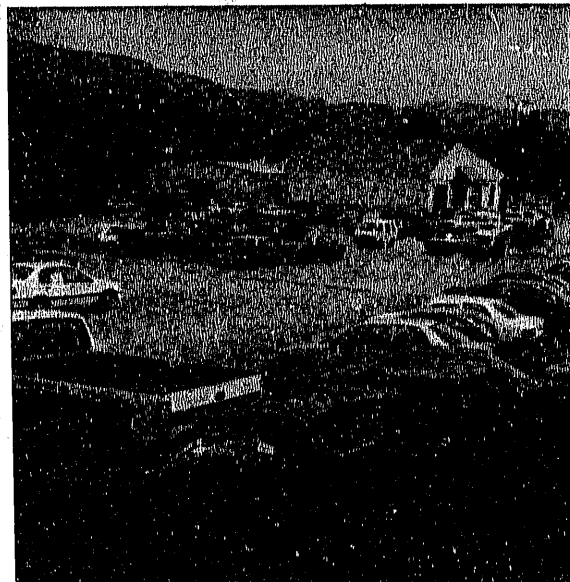
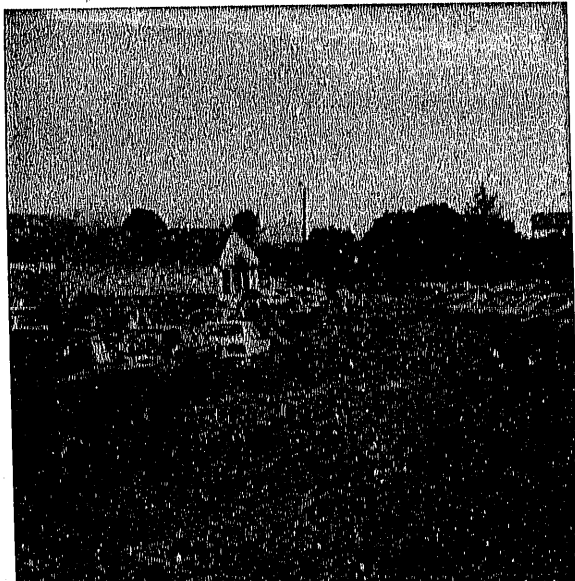


CD# 24571		150.00

© WILLIAMSON LAW BOOK CO., VICTOR, N.Y. 14564

By

*James M. [illegible]*  
*Tolson Clerk*  
 Title





APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Toyota of Newburgh, Inc.

FILE # 93-20.

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE . . . . . \$ 150.00 *paid 6/28/93*  
 \* \* \* \* \*

ESCROW DEPOSIT FOR CONSULTANT FEES . . . . . \$ 250.00 *6/28/93*

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE *6/14/93 - 10 pages* . . . \$ 45.00  
 2ND PRELIM. MEETING - PER PAGE . . . \$             
 3RD PRELIM. MEETING - PER PAGE . . . \$             
 PUBLIC HEARING - PER PAGE *7/12/93 - 8 pages* . . . \$ 36.00  
 PUBLIC HEARING (CONT'D) PER PAGE . . . \$             
 TOTAL . . . . . \$ 81.00

ATTORNEY'S FEES:

PRELIM. MEETING-	<u>.3</u>	HRS.	. . . . .	\$	<u>          </u>
2ND PRELIM.	<u>          </u>	HRS.	. . . . .	\$	<u>          </u>
3RD PRELIM.	<u>          </u>	HRS.	. . . . .	\$	<u>          </u>
PUBLIC HEARING	<u>.4</u>	HRS.	. . . . .	\$	<u>          </u>
PUBLIC HEARING	<u>          </u>	HRS. (CONT'D)	. . . . .	\$	<u>          </u>
FORMAL DECISION	<u>2.1</u>	HRS.	. . . . .	\$	<u>          </u>
TOTAL HRS.		<u>2.8</u>	@ \$150.00 PER HR.	\$	<u>420.00</u>
				TOTAL	\$ <u>420.00</u>

MISC. CHARGES:

Postage - 24 letters at .29 ea. . . . . . \$ 501.00  
 TOTAL . . . . . \$ 6.96  
 LESS ESCROW DEPOSIT . . . \$ 507.96  
 (ADDL. CHARGES DUE) . . . \$ 250.00  
 REFUND TO APPLICANT DUE . . . \$ 257.96

33-1

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

**THIS INDENTURE**, made the 11<sup>th</sup> day of October, nineteen hundred and eighty-four  
**BETWEEN** JOHN SARCKA and MARIE SARCKA, husband and wife, residing at  
 171 River Road, New Windsor, New York,

party of the first part, and TOYOTA OF NEWBURGH, INC., and New York State Corporation with  
 an office at Route 9W North, New Windsor, New York,

party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of -----

-----TEN----- dollars,

lawful money of the United States, and other good and valuable consideration, paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or  
 successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,  
 lying and being in the Town of New Windsor, County of Orange and State of New York  
 acquired by the Grantors from Ruth J. Iken and Lillian A. Bruno by deed dated  
 August 24, 1964 and recorded in the Orange County Clerk's Office in Liber 1677  
 of Deeds at page 203 on August 27, 1964.

MORE specifically, the remaining portion of that <sup>above</sup> <sup>now</sup> parcel designated on the  
 tax maps of the Town of New Windsor as Lot 6.2. together with any interest which  
 the grantors may have in and to that strip of land lying between Lots 1 and 25,  
 as shown on map entitled "Bernardsville, Town of New Windsor, Orange County,  
 New York" made by Nial Sherwood, dated November 1951 revised March 20, 1952 and  
 filed in the Orange County Clerk's Office on August 6, 1953 as map no. 1542.

Being lots #24 and #25 on said map.

T.D. 48-2-6.2

LIBER 2302 PG

37

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof, LIBER 2302 PG 38

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

John Sarcka L.S.  
JOHN SARCKA

Marie Sarcka L.S.  
MARIE SARCKA

On the 11<sup>th</sup> day of October 19 84, before me personally came

John Sarcka and Marie Sarcka

to me known to be the individual S described in and who executed the foregoing instrument, and acknowledged that they executed the same.

*Andrew P. Bivona*  
Notary Public - State of New York  
My Commission Expires March 30, 1986

ANDREW P. BIVONA  
Notary Public, State of New York  
Residing in Orange County  
My commission expires Mar. 30, 1986

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19 , before me personally came to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the of

, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19 , before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

**Bargain and Sale Deed**  
WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No.

JOHN SARCKA and  
MARIE SARCKA

TO

TOYOTA OF NEWBURGH, INC.

SECTION  
BLOCK  
LOT

XXXXXX TOWN New Windsor, Orange County

RETURN BY MAIL TO:

*Thomas Hadaway*  
*180 Main Street*  
*Hosken, N.Y.*  
Zip No. *10924*

STATE OF NEW YORK, COUNTY OF

ss:

On the       day of       19       , before me  
personally came  
to me known, who, being by me duly sworn, did depose and  
say that he resides at No.       ;

that he is the  
of       ;

the corporation described  
in and which executed the foregoing instrument; that he  
knows the seal of said corporation; that the seal affixed  
to said instrument is such corporate seal; that it was so  
affixed by order of the board of directors of said corpora-  
tion, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF

ss:

On the       day of       19       , before me  
personally came  
the subscribing witness to the foregoing instrument, with  
whom I am personally acquainted, who, being by me duly  
sworn, did depose and say that he resides at No.       ;

that he knows

to be the individual  
described in and who executed the foregoing instrument;  
that he, said subscribing witness, was present and saw  
execute the same; and that he, said witness,  
at the same time subscribed his name as witness thereto.

**Bargain and Sale Deed**

WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No.      

JOHN SARCKA and  
MARIE SARCKA

TO

TOYOTA OF NEWBURGH, INC.

SECTION

BLOCK

LOT

~~XXXXXX~~ TOWN New Windsor, Orange County

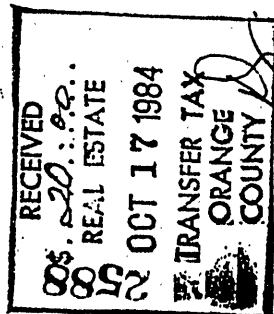
RETURN BY MAIL TO:

Thomas Hadaway  
180 Main Street  
Goshen, N.Y.

Zip No.

10924

Reserve this space for use of Recording Office.



LIBER 2302 PG

39

Orange County Clerk's Office, S.S.  
Recorded on the       day of       1984 at       2:30 p.m.  
Book       M. in Liber       at page       32  
Examined.       S. Murphy  
Clerk



# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

24

June 22, 1993

Toyota of Newburgh, Inc.  
96 Route 9W  
New Windsor, NY 12553

Re: Tax Map Parcel: 48-3-3 & 48-3-2.2 & 48-2-6.2

To Whom it May Concern:

According to our records, the attached list of property owners are within five hundred (500) feet of the referenced properties.

The charge for this service is \$45.00, minus your deposit of \$25.00. Please remit the balance of \$20.00 to the Town Clerk's office.

Sincerely,

*Leslie Cook (CD)*

Leslie Cook  
SOLE ASSESSOR

LC/cad  
Attachments

cc: Pat Barnhart, Myra Mason

Han Ung Motel & Realty Corp/  
d/b/a Windsor Motels  
114-124 Route 9W  
New Windsor, NY 12553

Bonnano, Joseph & Piazzola, Michael & Papera, Gabriel L.  
c/o Allstate Can Corp.  
40 Isabella St. PO Box 677  
Clifton, NJ 07012

Corey, Caroline J.  
26B Lafayette Dr.  
New Windsor, NY 12553

McDonnell, William & Christine  
40 Lafayette Dr.  
New Windsor, NY 12553

Turner, Richard & Diane J.  
2 Lafayette Dr.  
New Windsor, NY 12553

Belsito, Grace & Ralph F. Jr.  
4 Lafayette Dr.  
New Windsor, NY 12553

Niedbala, John S. & Betty  
6 Lafayette Dr.  
New Windsor, NY 12553

Llewellyn, Robert & Amelia  
8 Lafayette Dr.  
New Windsor, NY 12553

Conklin, Edward L. & Katherine T.  
12 Lafayette Dr.  
New Windsor, NY 12553

Cohen, Stanley C.  
14 Lafayette Dr.  
New Windsor, NY 12553

Nucifore, Alan & Deborah  
16 Lafayette Dr.  
New Windsor, NY 12553

Beyers, Edward C. & Marcia K.  
18 Lafayette Dr.  
New Windsor, NY 12553

Marcano, Domingo & Alejandrina  
20 Lafayette Dr.  
New Windsor, NY 12553



Artusa, Eugene X  
PO Box 2547  
Newburgh, NY 12550

Valicenti, Audrey X  
108 9W South  
New Windsor, NY 12553

Langer, Myron & Jean X  
c/o Lewis Langer  
44 Faye Ave.  
New Windsor, NY 12553

Bonura, Mary E. X  
87 Route 9W South  
New Windsor, NY 12553

The People of the State of New York  
50 Wolf Rd.  
Albany, NY 12233 X

BCA Bowling - Newburgh Inc.  
c/o John Sillico X  
PO Box 74  
Garden City, NY 11530

Dori Associates Inc.  
PO Box 4097 X  
New Windsor, NY 12553

Petro Realty of New York Inc.  
111 Route 9W  
New Windsor, NY 12553 X

Trifam Associates  
270 Main St.  
Cornwall, NY 12518 X

Saw Mill Sports Mgmt. Corp.  
72 Route 9W  
New Windsor, NY 12553 X

Plum Point on Hudson Assoc.  
c/o Harold Walland  
2 Lake St. X  
Monroe, NY 10950

*Pls. publish immediately. Send bill to Toyota of Newb.*

PUBLIC NOTICE OF HEARING BEFORE  
ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following proposition:

Appeal No. 20

Request of TOYOTA OF NEWBURGH, INC.

for a VARIANCE of  
the regulations of the Zoning Local Law to  
permit construction of a service center, office and  
parts department with insufficient front yard;

being a VARIANCE of

Section 48-12 - Table of Use/Bulk Regs.-Col E

for property situated as follows:

96 Route 9W, New Windsor, N.Y., known as tax lots

Section 48-Block 3-Lots 2, 2.2 and Section 48 -

Block 2 - Lot 6.2.

SAID HEARING will take place on the 12th day of  
July, 1993, at the New Windsor Town Hall,  
555 Union Avenue, New Windsor, N. Y. beginning at  
7:30 o'clock P. M.

JAMES NUGENT  
Chairman

*By: Patricia A. Barnhart, Secy*

**RETAKE  
OF  
PREVIOUS  
DOCUMENT**

Artusa, Eugene X  
PO Box 2547  
Newburgh, NY 12550

Valicenti, Audrey X  
108 9W South  
New Windsor, NY 12553

Langer, Myron & Jean X  
c/o Lewis Langer  
44 Faye Ave.  
New Windsor, NY 12553

Bonura, Mary E. X  
87 Route 9W South  
New Windsor, NY 12553

The People of the State of New York  
50 Wolf Rd.  
Albany, NY 12233 X

BCA Bowling - Newburgh Inc.  
c/o John Sillcox X  
PO Box 74  
Garden City, NY 11530

Dori Associates Inc.  
PO Box 4097 X  
New Windsor, NY 12553

Petro Realty of New York Inc.  
111 Route 9W  
New Windsor, NY 12553 X

Trifam Associates  
270 Main St.  
Cornwall, NY 12518 X

Saw Mill Sports Mgmt. Corp.  
72 Route 9W  
New Windsor, NY 12553 X

Plum Point on Hudson Assoc.  
c/o Harold Walland X  
2 Lake St.  
Monroe, NY 10950

Forge Hill - Case .3  
{ c. .1

$$\frac{2.4}{1.4} \times 150 = 210$$

Pm - Case .1

{ c. .2

$$\frac{FD \quad .6}{.9} \times 150 = 135.00$$

*Pls. publish immediately. Send bill to Toyota of New York.*

PUBLIC NOTICE OF HEARING BEFORE  
ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR

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JAMES NUGENT  
Chairman

*By: Patricia A. Barnhart, Secy*

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR  
COUNTY OF ORANGE : STATE OF NEW YORK

-----x  
In the Matter of Application for Variance of

Toyota of Newburgh, Inc.

Applicant.

AFFIDAVIT OF  
SERVICE  
BY MAIL

#93-20.  
-----x

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE )

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age  
and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On July 29, 1993, I compared the 24 addressed  
envelopes containing the attached Notice of Public Hearing with  
the certified list provided by the Assessor regarding the above  
application for variance and I find that the addressees are  
identical to the list received. I then mailed the envelopes in a  
U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart  
Patricia A. Barnhart

Sworn to before me this  
29<sup>th</sup> day of June, 1993.

Deborah Green  
Notary Public

DEBORAH GREEN  
Notary Public, State of New York  
Qualified in Orange County  
# 4984065  
Commission Expires July 15, 1995

(TA DOCDISK#7-030586.AOS)

1985

85-39. Application for Use and Area variances.

Applicant: TOYOTA OF NEWBURGH  
Route 9W  
New Windsor, N. Y. 12550

Applicant intends to construct (1) new 1 story structure for auto service and repair and (2) new 2 story structure for auto parts sales and office.

Preliminary meeting: 10/28/85

Engineer: SHAW ENGINEERING  
162 Grand Street  
Newburgh, N. Y. 12550  
(914) 561-3695

Ordered list from Assessor: 10/03/85. - Received list containing 22 names and addresses of property owners.

Section: 48 Block: 3 Lot: <sup>2.2</sup>3 (existing building thereon)  
48 Block: 2 Lot: 6.2 (new structures to be built)

Applicant requires: (1) 20 ft. front yard on 9W - 48-12. - Col. 6  
(2) 20 ft. front yard on Lafayette Ave. "  
(3) 6 ft. building height 48-12. Col. 10  
(4) Use variance for car storage in R5  
zone - 48-9. Table of Use. - Col. A.

Zone: (1) N.C.  
(2) R-5 to rear



Date ..... 7/19/93 ..... 19.....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO: Francis Roth, 172 Moores Hill Rd DR.  
New Windsor Ny 12553

DATE			CLAIMED	ALLOWED
7/12/93		Zoning Board Meeting-	75 00	
		Misc 2		
		Kreva - 6		
		Fairbanks - 4		
		Rigoli - 6		
		Kreseurc - 4		
		Maugham - 1 <del>4.50</del>		
		Toyota - 8 - \$36.00		
		Coreene - 6	1166 50	
		37 pp	241 50	

**TOYOTA OF NEWBURGH**

Mr. Don Benvie of Tectonic Engineering, Mr. Richard Gaillard and Mr. George Gaillard appeared before the board for this proposal.

MR. NUGENT: Request for 12 ft. front yard variance to construct addition for service and office area located at 96 Route 9W in an NC Zone. If there's anyone here interested in this, please sign the sheet.

MR. BENVIE: Good evening, I'm Don Benvie with Tectonic Engineering, I'm here to represent Toyota of Newburgh with regards to the request for the variance, it's for variance for front yard setback. We're asking for a variance for 12 feet. The existing zoning ordinance requires 40 foot setback, we're requesting variance of 12 feet to allow 28 foot setback for proposed 10,000 square foot service building.

MR. TORLEY: This is the same drawing that you had?

MR. BENVIE: I believe so.

MR. LUCIA: It's been amended since we last saw it. The only change that I can see is that they took off the language on the parking area in the back, I think originally it was called vehicle storage.

MR. BENVIE: The other application was for 8,800 square feet this is 10,000 square feet.

MR. LUCIA: The numbers changed. We need a different denial if the numbers changed.

MR. BENVIE: Revision 3 is the 10,000 square foot building.

MR. LUCIA: Let's look at the one that came from the Planning Board.

MR. BENVIE: I believe--

MR. LUCIA: This is revision 2.

MR. RICHARD GAILLARD: I guess it was 10,000 all along.

MR. LUCIA: No change.

MR. RICHARD GAILLARD: No.

MR. LUCIA: Other than deleting the word vehicle storage there's no other change?

MR. BENVIE: That is all.

MR. LUCIA: With reference to that vehicle storage issue you may recall when they came in for preliminary we raised a question that storage of unlicensed vehicles in the R-5 part of the parcel would not be permitted and I see in looking at the application the applicant now says that the property has had a previous use variance granted on December 9 of '85 and the use variance is for cars storage in R-5 zone so apparently the issue has been dealt with. What I found curious there were also area variances that I didn't see the resolution but I saw I guess what was preliminary and it appeared that the applicant came in applying for 20 foot front yard variance on 9W as well as 20 foot front yard variance on Lafayette and the building I see on this plan couldn't possibly have both of those variances. I'm not sure whether you changed the location after you applied for it or just what happened.

MR. RICHARD GAILLARD: That was how long ago?

MR. LUCIA: '85.

MR. GEORGE GAILLARD: One time we applied we were going to put another building to that piece that was going to be for a showroom.

MR. LUCIA: That building was never built.

MR. GEORGE GAILLARD: No, so is that was just left by the wayside.

MR. LUCIA: I don't know why this data came from on the '85 variances on the application because we didn't pull

the file but I'm not sure whether those variances ever went to the point of being adopted. This isn't the building that was then before the board so maybe there's not a use variance for vehicle storage but you said you're going to keep licensed vehicles anyway so it is not an issue.

MR. RICHARD GAILLARD: Yes.

MR. LUCIA: You do have a previous sign variance that you are familiar with that is not a problem. In looking at your deeds, thank you for providing those, I see there's no deed to the tax lot number 3, I guess that was lot number one of the old map, the basic lot I would like to see I guess it's this corner, the original tax lot 3 would be the one with the existing building on it. I would like to see copy of that deed as well as copy of the title policy. We wouldn't hold up your application but sometime before we do a formal application, I would like to see it. I saw deeds on the other two so if you would give me that because I'm interested in how the title policy treats that private road.

MR. GEORGE GAILLARD: Okay, it's actually what's that?

MR. BENVIE: Paper street it has been dedicated.

MR. GEORGE GAILLARD: I thought we had that out, I'll have is to look for that.

MR. RICHARD GAILLARD: I'm not sure, I know we raised that question last time we were here that is how we got into the vehicle storage, that is how we got on that whole tangent.

MR. LUCIA: The impression I got was that it was abandoned.

MR. BENVIE: It's not abandoned, it's a dedicated street, it's on the tax rolls as being a dedicated street.

MR. LUCIA: The one measurement that doesn't show here I guess would be then the rear yard dimension from the

that is something that is going to be actually that becomes front yard again doesn't it?

MR. BENVIE: Yes but that road was dedicated at the time or prior to this building being constructed, I believe. In other words, there should not be a zoning variance required for that because we went through this with Mike and Mark and there's no zoning variance required for it.

MR. LUCIA: Why?

MR. BENVIE: It was my recollection that when we went through the time going through when this I believe the building preceded the dedication of this street.

MR. LUCIA: I'm sorry, I take the reverse of what you're saying.

MR. BENVIE: The building preceded the dedication of that road.

MR. LUCIA: I realize you have laid this out on the record but since this is a public hearing, if you would just once again explain why it is you need to locate the building in this location and why it generates a need for the front yard variance?

MR. BENVIE: Okay, first of all, the building that they are proposing is a service building, it's to allow them to be able to provide their service portion of their business for new and used cars for new car service and maintenance. The layout of the building is designated by Toyota Corporation and they are the ones who developed the footprint of this building, the footprint being the width this way, especially is a function of the stall width that they need to get the cars, stall widths to get the cars in and maintain their aisle in the building so there's really no room to move on this width and that is why we have ended up with a need to have this 12 foot variance here because to try to shrink down the building to meet the 40 foot on either side would render half the building useless as far as being able to service cars and again that is really what's driving the actual width of the building in this

what's driving the actual width of the building in this direction. As far as addressing the 5 items.

MR. LUCIA: Go ahead, you're on a roll.

MR. BENVIE: One of the reasons why we believe it should be granted we don't feel it's going to produce an undesirable change in the character of the neighborhood or be of a detriment to the nearby properties.

MR. LUCIA: Can you describe for us what the character of the neighborhood is?

MR. BENVIE: Yes, the parcels in question are neighborhood commercial and the neighboring users within the district I believe let's see what we're showing here, the neighbor over here and then you have--

MR. LUCIA: That would be the parcel just to the north of the subject parcel?

MR. BENVIE: Yes, that would be Valcenti's Restaurant and then across is R-5 across on the other side Lafayette Drive and what we're proposing there we believe will not have anymore of an impact than the facilities that exist there now.

MR. LUCIA: What you're proposing is permitted in the NC zone?

MR. BENVIE: Yes, this is permitted use in the NC zone. And as I said, there's really no other feasible method to achieve the goals because we really need this width on the building and you can't rotate the building, it would be worse off to rotate it because then you'd have to have variances on both sides. We wouldn't be able to fit a through aisle all the way around the outside of the building. And 12 foot we don't believe that going from 40 feet to 28 feet is a significant variance based on just basically physical dimensions itself. We also don't feel that again it will have an adverse impact on the neighborhood or have any environmental impacts that would preclude the proposed construction

there of any building. Again we gave existing facility that is similar in use to this building here and based on past performance records, we feel that the use of the building that we're proposing here will be at the same level of compliance with maintaining the environment, no environmental impacts. And finally, I guess this difficulty is not a self-created difficulty, it's the fact of the matter is we have a piece here that has got double frontage and because of the double frontage, it has 2 roads we have double frontage and because of that, we have to meet the more stringent requirements of 2 front yard setbacks. If this is a rear yard obviously we'd meet the setback requirements if it was a rear yard, we have 15 feet and we propose 28. If one of them was rear yard, we would have exceeded it. Unfortunately, because of the configuration of the lot with respect to the existing roadways, we can't meet that requirement.

MR. LUCIA: I notice your deed as all deeds are subject to various covenants and restrictions and easements of record. Is there anything affecting the title to the property to your knowledge which would prohibit you from maintaining the structure concerning which you're now seeking a variance?

MR. GEORGE GAILLARD: No.

MR. LUCIA: Thank you.

MR. NUGENT: Any other questions by the board?

MR. HOGAN: Just, Dan, did you cover this already, the subjects that Ted brought up?

MR. LUCIA: I think when you did your last application on the piece up by the corner of 94 and Quassaick, I guess there was a question whether or not the board has required you to remove the superstructure for the existing sign. I think Ted was interested in whether or not that was complied with.

MR. RICHARD GAILLARD: I spoke with Mike Babcock and I guess they are redoing sign variances on the 14th, is that correct?

MR. LUCIA: Well, there is a public hearing on the 14th, we're addressing it and they should be treated differently and we have to be sited for that location and it can be sited and get the proper variances and they are in no way related, I'll address it. I don't think anyone on the board I think as he's entitled to when you get an applicant in, you make certain representations and it establishes a track record. He was asking whether or not it had been complied with and if not when would it be?

MR. RICHARD GAILLARD: Like I said, Mike said because they are re-doing the sign variances instead of handing in the application, just hold off until they redo it then I'll know what I am doing. Then I'll be in compliance with them.

MR. NUGENT: It's not the same building.

MR. LUCIA: It was never an intent to make that subject to. It was just a point of information he was wondering what the board's wishes were.

MR. RICHARD GAILLARD: Once they find out what the requirements are, we'll comply with it, here's pictures by the way.

MR. NUGENT: I'll close the public hearing.

MR. TORLEY: We have had all the appropriate comments from the County and whatever?

MR. LUCIA: It's on a state highway, it does not require a variance.

MR. NUGENT: No further questions, I'll entertain a motion.

MR. LANGANKE: I make a motion we accept the variance as proposed.

MR. HOGAN: Second it.

ROLL CALL



July 12, 1993

30

MR. NUGENT	AYE
MR. HOGAN	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE

**SECTION 47.**

**SECTION 51**

**SECTION 81**

**SECTION 37**

Prepared by  
GRANT CO. TAX MAP DEPT.  
MAIN ST., CHENAY, N. Y. 10624  
1969  
FOR TAX PURPOSES ONLY

STATE OR COUNTY LINE	PURCH PLAN LOT LINE	TAX MAP BLOCK NO	FIRE PLAN BLOCK NO
CITY TOWN OR VILLAGE LINE	BASEMENT LINE	TAX MAP PARCEL NO	PURCH PLAN LOT NO
BLOCK & SECTION LINE	MATCH LINE	AREAS	STATE HIGHWAYS
SPECIAL DISTRICT LINE	STAIRS	DIMENSIONS (Feet) of (Square) feet	COUNTY HIGHWAYS
PROPERTY LINE	SEALED AND COMPOSITE CENTROID		TOWN ROADS

ORANGE COUNTY~NEW YORK

Photo No: 14 - 31, 32, 33 Date of Map 9-24-67  
Date of Photo: 3-1-65 Date of Revision: 3-1-91

Scale: 1" = 100'

TOWN

Section

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

# 93-20

Date: 6/17/93

I. Applicant Information:

- (a) TOYOTA OF NEWBURGH, INC., 96 Route 9W, New Windsor, N.Y. 12553 x  
(Name, address and phone of Applicant) (Owner)
- (b) -  
(Name, address and phone of purchaser or lessee)
- (c) -  
(Name, address and phone of attorney)
- (d) Tectonic Engineering, P.O. Box 447, Route 32, Highland Mills, N.Y. 10930  
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ☐ Use Variance ☐ Sign Variance
- ☒ Area Variance ☐ Interpretation

III. Property Information:

- 48-3-3
- (a) NC 96 Route 9W, New Windsor, N.Y. 48-3-2.2  
(Zone) (Address) (S B L) 3.7942 acres +  
(Lot size) -
- (b) What other zones lie within 500 ft.? None
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 10/22/80
- (e) Has property been subdivided previously? Yes
- (f) Has property been subject of variance previously? Yes  
If so, when? 12/9/85 (use/area) 01/23/90 (sign)
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: N/A
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

IV. Use Variance. n/a

- (a) Use Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_, to allow:  
(Describe proposal) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

n/a  
 (b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. E.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. <u>40 ft.</u>	<u>28 ft.</u>	<u>12 ft.</u>
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

\* Residential Districts only

\*\* No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(See additional data attached hereto)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: n/a

(a) Variance requested from New Windsor Zoning Local Law,  
Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

n/a  
(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

\_\_\_\_\_  
\_\_\_\_\_.

VII. Interpretation. n/a

(a) Interpretation requested of New Windsor Zoning Local Law,  
Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs.,  
Col. \_\_\_\_\_.

(b) Describe in detail the proposal before the Board:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

Applicant proposes an 8,800 s.f. service center; 6,400 s.f. service area and 2,400 s.f. area for office and parts. ✓

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.  
☒ Copy of tax map showing adjacent properties.



Applicant TOYOTA OF NEWBURGH, INC. purchased the property in October 1980 and shortly thereafter sought and was granted a use and area variance in 1985 to allow for the operation of new car sales and service in an NC zone and for the storage of vehicles in the R-5 portion to the rear.

In order to expand the operation, Applicant recently applied for a building permit to construct an additional service center with office and parts department. The Building Inspector's Office issued a notice of denial of a building permit application dated May 19, 1993 in answer to Applicant's request for a building permit to construct a 8,800 sq. ft. service center with office area and parts department on the parcel known as Section 48, Block 2, Lot 6.2 which is presently being used as a parking lot just north of the Toyota of Newburgh showroom. A copy of the tax map is annexed hereto.

The Zoning Board of Appeals should consider the following five (5) specific points when granting an area variance:

1. The Applicant believes that if the variance is granted it will not produce an undesirable change in the character of the neighborhood or detriment to nearby properties. The parcels in question are zoned for neighborhood commercial (NC) use and are harmonious with the neighboring uses within the district and will not have an adverse effect on property values in the neighborhood.

2. There is no other feasible method available to the Applicant which can produce the benefit sought other than the variance procedure.

3. The Applicant submits that the extent of the variance sought is not substantial since the request is for a 12 ft. front yard variance.

4. Applicant feels that the proposed variance sought will not have an adverse effect or impact on either the physical or environmental conditions in the neighborhood. The Applicant is constantly expanding and improving the facilities available for customer service and the operation is a viable asset to the area.

5. The Applicant's difficulties are not self-created. It was the intention of the Applicant to purchase the additional parcels in order to meet the growing needs of the business and expansion at this time remains a critical issue in order for Applicant to remain competitive in the retail car sales business.

In view of all of the facts and circumstances presented to this Board, Applicant respectfully requests that the requested area variance be granted.

Prelim. meeting =  
June 14, 1993

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR  
ORANGE COUNTY, NY

#93-20

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 93-10

DATE: 5-19-93

APPLICANT: Toyota of Newburgh, Inc.

96 Rt. 9W

New Windsor, N.Y.

Rich Gaillay  
561-0340

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 3-18-93

FOR (~~SUBDIVISION~~ - SITE PLAN) Site Plan

LOCATED AT 96 Rt. 9W (East Side)

ZONE NC

DESCRIPTION OF EXISTING SITE: SEC: 48 BLOCK: 5 LOT: 2

Car Sales and repair - parking area

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

Insufficient front yard required

6-6-93  
J. J. CO.  
24 009

Michael Babcock  
MICHAEL BABCOCK,  
BUILDING INSPECTOR

\*\*\*\*\*

REQUIREMENTS

PROPOSED OR  
AVAILABLE

VARIANCE  
REQUEST

ZONE NC USE \_\_\_\_\_

MIN. LOT AREA \_\_\_\_\_

MTN. LOT WIDTH \_\_\_\_\_



APPLICANT: Toyota of Newburgh, Inc.  
96 Rt. 9W  
New Windsor, N.Y.

*Rich Caillat*  
561-0340

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 3-18-93

FOR (~~SUBDIVISION~~ - SITE PLAN) Site Plan

LOCATED AT 96 Rt. 9W (East Side)

ZONE NC

DESCRIPTION OF EXISTING SITE: SEC: 48 BLOCK: 3 LOT: 2

Car Sales and repair - parking area

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

Insufficient front yard required

*6-6-93*  
*5-19-93*  
*49 00*

*Michael Babcock*  
 MICHAEL BABCOCK,  
 BUILDING INSPECTOR

\*\*\*\*\*

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>NC</u> USE _____		
MIN. LOT AREA _____		
MIN. LOT WIDTH _____		
REQ'D FRONT YD. <u>40 FT</u>	<u>28 FT</u>	<u>12 FT</u>
REQ'D SIDE YD. _____		
REQ'D TOTAL SIDE YD. _____		
REQ'D REAR YD. _____		
REQ'D FRONTAGE _____		
MAX. BLDG. HT. _____		
FLOOR AREA RATIO _____		
MIN. LIVABLE AREA _____		
DEV. COVERAGE _____ %	_____ %	_____ %
O/S PARKING SPACES _____		

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:  
 (914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD  
 OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

TOYOTA OF NEWBURGH, INC. SITE PLAN (93-10) RT. 9W

Don Benvie of Tectonic Engineering appeared before the board representing this proposal.

MR. PETRO: For the Planning Board's information, fire has been approved on 3/18/93.

MR. VAN LEEUWEN: Does it have to go to the County?

MR. PETRO: Yes.

MR. VAN LEEUWEN: Has it been sent?

MR. PETRO: No.

MR. BENVIE: Good evening, we're here tonight for Toyota, what they are proposing to do is construct 8,800 square foot service center over right now if you travel up 9W, where they store all the cars, there are just north of the building they are proposing to put a service building in that area. It will have 6,400 square feet of service area and 2,400 square feet of office, an office and parts. Right now, on the bulk requirements because we have double frontage here, we are set back, we're short on the setback for the distance between Lafayette and the building I believe is what we're required to have 40 right now, we have 28 which would be--

MR. VAN LEEUWEN: So what you need is a turn down to go to the Zoning Board?

MR. BENVIE: Exactly, 12 feet, right.

MR. PETRO: I can't move it forward against 9W because you already have the minimum.

MR. BENVIE: We're right at the 40 on 9W.

MR. PETRO: Can't take 12 feet out of the building?

MR. BENVIE: That would really impeach.

MR. DUBALDI: I make a motion that the New Windsor

Planning Board approve the Toyota of Newburgh site plan.

MR. VAN LEEUWEN: I'll second that. Don, when you bring this back, make sure you have a bit of landscaping detail on this map. Kind of dress it up a little bit because it doesn't--

MR. PETRO: Plan appears to depict proposed road through the easterly part of the site. It should be determined that that proposed road will actually be offered for dedication to the Town. If so, it should be determined if it is acceptable to utilize this area as part of the site development.

MR. EDSALL: I want to make sure because before you get your variances that we know we don't have any other problems and what I want to make sure is that this road that is between the access to the Plum Point properties and the extension of Lafayette that proposed road was proposed someplace but never offered for dedication because I think it was offered.

MR. BENVIE: This doesn't show on the tax maps as a Town road?

MR. VAN LEEUWEN: Town might own it.

MR. EDSALL: The Town may not own it. It may have been offered for dedication and never taken. I think before you spend the money to go to the ZBA, just find out really what that is and if the Town Board has no intent to ever make that connection, let them tell us now rather than have a problem.

MR. VAN LEEUWEN: You've got ingress/egress coming off Lafayette Drive?

MR. BENVIE: Right now we're showing two way access and one way access onto Lafayette.

MR. VAN LEEUWEN: Why do you want to do that if you have got to do the road?

MR. BENVIE: Well, this is just a paper road here. I

don't think it's ever intended we're not planning to do anything with this.

MR. VAN LEEUWEN: Where the new building is coming in is that part paved?

MR. BENVIE: This is paved, all here and paved.

MR. VAN LEEUWEN: The upper end is not paved?

MR. BENVIE: Right, no, this thing is not paved all the way out here, this is paved right down to this point here, they are making, Mark, you're making reference to this paper road in here right?

MR. EDSALL: I'd rather not have this surprise later on.

MR. PETRO: This is three separate tax parcels, is all the new construction on just two of the parcels?

MR. BENVIE: Yes, it's on actually new construction is on one parcel, all the new construction.

MR. PETRO: Including the parking.

MR. BENVIE: Including the parking for here. The parking that is on this parcel in really existing.

MR. PETRO: Mark, parking for new construction is more than ample on one lot so I don't have to show us that other lot and that will eliminate the problem.

MR. EDSALL: Not really. Right now, the way the calculation is shown, they are considering this all one site and that is what you, how they want to do it. They should combine the lots. If they don't want to combine the lots, they should show us the lines and we have to make sure that every site stands on its own in case it's sold. And then you have to also make sure that you have cross-easements for access. You can't ignore it. So again that is something that you can work out when you come back from the ZBA. We'll straighten it out but I want, the reason I went through this I didn't want to have any surprises when you got

back.

MR. BENVIE: So I think we do fit all the parking for this new construction on the one tax parcel, if we can do that it's a matter of showing where the tax parcels are and showing that each parcel that stands alone has ample parking.

MR. PETRO: Take the road of less resistance, it might be easier to do what Mark is saying.

MR. VAN LEEUWEN: Make the whole thing one lot, it's much easier.

MR. EDSALL: You pay taxes more for three.

MR. VAN LEEUWEN: If he goes to sell it, it's cheaper to sell it as one.

MR. PETRO: Mark, if the building on the new parcel can be fitted on to that one parcel and the road going out into Lafayette Drive is approved by the fire department and everything stands on its own merits, we don't have to look at the other parcel.

MR. EDSALL: Well, there's layout changes being proposed effectively on all three lots.

MR. VAN LEEUWEN: We did the same thing for Casey Manns, we made him show the lots.

MR. EDSALL: What I am suggesting is that if they want to keep it as 3 lots, we just have to review it as 3 individual lots but an overall site that we're looking at.

MR. BENVIE: If we wanted to have it as one lot, what do we have to do as far as taxes?

MR. VAN LEEUWEN: Go to Town Hall in the next month and go there and just ask for them to wipe out those lines, you don't even know he did a site plan.

MR. EDSALL: Re-file the deed combining all the lots.

MR. BENVIE: At that point probably take care of the issue with regards to this paper road here so I guess at this point, what we're looking for is a referral to the ZBA.

MR. PETRO: Just want to clear up as much as we can while you are here.

MR. EDSALL: Only other thing I'd like to go over before you fill your application out, just to doublecheck a couple questions on the parking. I don't want you to go through and find out you need a couple parking space variances so we'll resolve that as well.

MR. BENVIE: One of the comments I saw you had was on the rear yard. There shouldn't even be one because you have 2 front yards.

MR. EDSALL: You have the rear behind the old building which is way over unless that is a paper street, then I don't know what you do.

MR. PETRO: Anything else?

MR. VAN LEEUWEN: I restate my motion.

MR. LANDER: Second it.

MR. PETRO: Motion is made and seconded that the New Windsor Planning Board grant site plan approval to Toyota of Newburgh site plan. Any further discussion?

ROLL CALL

MR. LANDER	NO
MR. DUBALDI	NO
MR. VAN LEEUWEN	NO
MR. PETRO	NO

MR. PETRO: You are referred to the Zoning Board to grant the variance that you need. At that time, come back and see us and we'll further review your site plan.

MR. BENVIE: Thank you.

**CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT-THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY**

THIS INDENTURE, made the *22nd* day of *October*, nineteen hundred and eighty

BETWEEN

ACADEMY VENTURES, INC., Route 9W, Highland Falls, Orange County, State of New York

party of the first part, and

TOYOTA OF NEWBURGH, INC., Route 9W, Highland Falls, Orange County, State of New York

party of the second part,

WITNESSETH, that the party of the first part, in consideration of ten dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

~~ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the~~

ALL those certain lots Nos. 2, 3, 4 and 5 laid out on map entitled "Bernardsville, Town of New Windsor, Orange County, N.Y.", made by Nial Sherwood, dated November 1951, revised March 20, 1952, which revised map was filed in the Office of the Clerk of the County of Orange on August 6, 1953, as Map No. 152, known and designated as Lots No. 2 to 7 inclusive.

BEING a portion of the same premises conveyed to ACADEMY VENTURES, INC. by JOHN J. LEASE, JR. and RICHARD F. LEASE by deed dated July 22, 1974, and recorded in the Orange County Clerk's Office on the 5th day of August, 1974 in Liber 1985 of Deeds at Page 1125.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

TOYOTA OF NEWBURGH, INC., Route 9W, Highland  
Falls, Orange County, State of New York

party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of ten dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

~~ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the~~

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AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

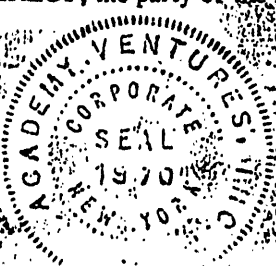
AND the party of the first part covenants as follows: that said party of the first part is seized of the said premises in fee simple, and has good right to convey the same; that the party of the second part shall quietly enjoy the said premises; that the said premises are free from incumbrances, except as aforesaid; that the party of the first part will execute or procure any further necessary assurance of the title to said premises; and that said party of the first part will forever warrant the title to said premises.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

ACADEMY VENTURES, INC.



*George E. Dillard, Pres*

HIM ADONIS 1101-1



OF NEW YORK, COUNTY OF

SS:

the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF ORANGE

SS:

On the 22 day of OCTOBER 1980, before me personally came GEORGE E. BALLARD to me known, who, being by me duly sworn, did depose and say that he resides at No. Highland Falls, NY

that he is the PRESIDENT of Academy Ventures, Inc.

Rt. 90, NEWBURGH, NY, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

NOTARY PUBLIC

MARION McCULLOUGH  
Registration No. 4715843  
Notary Public in the State of New York  
Appointed in Orange County  
Commission will expire March 30, 1982

## Warranty Deed

WITH FULL COVENANTS

TITLE NO. R20 518508

ACADEMY VENTURES, INC.

TO

TOYOTA OF NEWBURGH, INC.

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS

Distributed by

CHICAGO TITLE  
INSURANCE COMPANY

STATE OF NEW YORK, COUNTY OF

SS:

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF

SS:

On the day of 19 , before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows

to be the individual described in and who executed the foregoing instrument: that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

SECTION

BLOCK

LOT

COUNTY OR TOWN OF ORANGE

TOWN OF NEW WINDSOR

Recorded at Request of

CHICAGO TITLE INSURANCE COMPANY

Return by Mail to

George J. Swander, Esq.  
ROCKWOOD, EDELSTEIN & DUFFY, P.C.  
320 Chappaqua Road  
Briarcliff Manor, NY

Zip No. 10510

ORDING OFFICE

SS: day 11/19/80

11/19/80

STATE OF NEW YORK, COUNTY OF *Orange*

SS:

On the *22* day of *OCTOBER* 19*80*, before me personally came *GEORGE E. BALLARD* to me known, who, being by me duly sworn, did depose and say that he resides at No. Highland Falls, NY;

that he is the *PRESIDENT* of *Academy Ventures, Inc.*

*Rt. 90, Newburgh, NY.*, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

*Marion McCullough*  
NOTARY PUBLIC

MARION McCULLOUGH  
Registration No. 4715843  
Notary Public in the State of New York  
Appointed in Orange County  
Commission will expire March 30, *1982*

### Warranty Deed

WITH FULL COVENANTS

TITLE NO. *R80 518508*

ACADEMY VENTURES, INC.

TO

TOYOTA OF NEWBURGH, INC.

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS

Distributed by

**CHICAGO TITLE  
INSURANCE COMPANY**

SECTION

BLOCK

LOT

COUNTY OR TOWN OF ORANGE

TOWN OF NEW WINDSOR

Recorded at Request of

**CHICAGO TITLE INSURANCE COMPANY**

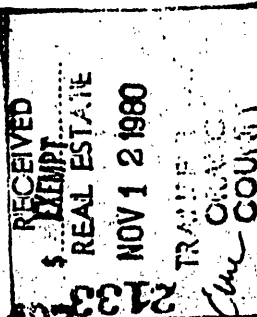
Return by Mail to

George J. Swander, Esq.  
ROCKWOOD, EDELSTEIN & DUFFY, P.C.  
320 Chappaqua Road  
Briarcliff Manor, NY

Zip No. 10510

RECORDED AT REQUEST OF  
RONALD GOLDSAND, AGENT  
Security Title and Guaranty Company  
RETURN BY MAIL TO

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE



Orange County Clerk's Office ss.  
Recorded on the *22* day  
of *NOV* 19*80* at *11:00*  
o'clock *A.M.* in Liber *2179*  
and Examined  
at page *126*

*Jack A. ...*

Date 6/30/93, 19.....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 172 Moores Hill Rd DR.  
New Windsor NY 12553

DATE			CLAIMED	ALLOWED
6/4/93	New Windsor Zoning Board		75 00	
	Misc. 1			
	Jones - 11			
	Toyota - 10 45.00			
	Greene - 9			
	Berry - 4			
	Leidy - 4			
	La Casa D'oro, Inc - 7			
	DeDominicis - 2		216 00	
	<del>48 SP</del>			
			291 00	
			- 46 00	per 5/24
			245 00	

TOYOTA OF NEWBURGH, INC.

MR. NUGENT: Request for 12 ft. front yard variance for construction of addition (service and office area) at 96 Route 9W in an NC zone. Referred by Planning Board.

Mr. Ross Winglovitz of Tectonic Engineering and Richard Gaillard of Toyota of Newburgh appeared before the board on this proposal.

MR. WINGLOVITZ: This is the applicant of Toyota, what we're proposing tonight is a variance for front yard setback on an awful odd shaped lot which is currently the parking vehicle storage area to the left of existing facility. I brought some extra maps, I don't know how many you have, if anybody needs one. What it is what we're proposing is a vehicle service area to service the existing demands for vehicle service that they have based on all the sales they have gone through and vehicles that are coming in. Now, there's basically two reasons that we're requesting the variance. One because of the odd lot being double front yards, where it's a double fronting lot against 9W and against Lafayette Drive and the other reason it's a hardship for my client because of the fact that Toyota has certain requirements on number of service bays and so forth. You have to have based on vehicles and they are requiring him to do an addition to the building and this is basically the only spot that is practical to do that addition in the size that he needs to actually do the addition. Are any questions?

MR. LUCIA: Just to review couple of things that came up at your Planning Board meeting. You do intend to combine these 3 tax lots into a single tax lot?

MR. WINGLOVITZ: Correct, I believe there's a note to that effect.

MR. LUCIA: What's the status of the paper street that cuts across behind your existing.

MR. WINGLOVITZ: Status of that it's just on a filed map and it's never been built on so it's just there as

a paper street.

MR. LUCIA: But not abandoned by the Town I take it?

MR. WINGLOVITZ: I would say it's been more, I don't believe it's been dedicated, it's on an existing filed map, it's a private piece of property.

MR. LUCIA: I think the problem you look at the Town Law isn't there provision that if a street is shown on a filed map, it's deemed to be an offer of dedication and it's an open offer until the Town somehow delinquishes whatever rights they may have.

MR. WINGLOVITZ: It's a 6 year term if they don't maintain a street that it would revert back to actually the property owner too so that is--

MR. WINGLOVITZ: You've owned the property for how long?

MR. GAILLARD: I think '71.

MR. LUCIA: Nobody's asserted any rights?

MR. GAILLARD: No, not yet.

MR. NUGENT: This building is going up where you have all the cars stored on the left-hand side facing the building, correct?

MR. GAILLARD: Yes.

MR. LANGANKE: Is this where you store all your cars now.

MR. GAILLARD: Yes.

MR. WINGLOVITZ: If you look at the plan, you can see the edge.

MR. GAILLARD: We have storage in the back and also because of how it's going to be laid out differently, you're going to have a lot more parking integrated in the existing lot.

MR. LANGANKE: So you will still be able to get the same amount of cars on the property?

MR. GAILLARD: Oh, yeah.

MR. LUCIA: The lot in the back poses an interesting question. But actually in the R 5 zone and under 48-14 A 5, storage of unlicensed vehicles is prohibited in a residential district, unless they are in an enclosed structure and I'm not sure how that relates to your operation, I presume all those vehicles aren't going to be licensed?

MR. WINGLOVITZ: I think it's a pre-existing use, I think they'd be using, they have been using it as a vehicle storage area for some time.

MR. LUCIA: Pre-exists zoning.

MR. NUGENT: Would a structure be considered a fence?

MR. BABCOCK: No, that has been tested, it's got to be fully enclosed structure. 4816 under the parking regulations says that you can have your parking doesn't say unlicensed, I understand what you're saying, that is what we looked at. We asked him to move it back so there wouldn't be any interference with the right-of-way so there would be no question.

MR. HOGAN: What are you suggesting?

MR. LUCIA: I raised it as an issue that I see that if that is going to be a new location for parking as I gather it is.

MR. GAILLARD: It's existing at the moment, not with the amount of cars but it's existing at the moment. It's an usable space back there and the thing with the enclosure hasn't been brought up yet.

MR. TORLEY: Isn't there because of the property that is in the C zone or NC, isn't he permitted to have some spill over in the portion of his property that is--

MR. BABCOCK: He's allowed to use it if the cars were registered there wouldn't be a question. The problem is the cars are new and not registered. I think that the applicant should seek a variance from that section of the law and it wouldn't be any question.

MR. NUGENT: For all intents and purposes, he owns those cars even though they don't have plates on them.

MR. BABCOCK: They are unregistered vehicles though, right?

MR. GAILLARD: If something happens to the vehicles, it's Toyota of Newburgh that is going to take care of going through the insurance, all those vehicles come with MSOs. When we sell the car, title work is processed, ownership is transferred from and dealer to owner by an MSO.

MR. TANNER: It's not ownership, it's registration which is a distinct difference.

MR. LANGANKE: Is the object of that requirement to keep people from loading up their property with unlicensed cars?

MR. BABCOCK: Yes but the thing is with what Dan is bringing up and I think it's in the benefit of the applicant if he is here tonight. It's the same thing whether he asks for one area or two area variances. If there was a question to come down the road from a resident or neighbor or something like that we have all bases covered.

MR. TORLEY: Would this be a use or area variance?

MR. BABCOCK: Area.

MR. TORLEY: If my recollection of the code is fuzzy, he's asking to park unregistered vehicles in a residential zone, that is prohibited, that would be a use variance for that section.

MR. LUCIA: You certainly can argue it's a use variance.

MR. LANGANKE: Isn't he caught in like a no man's land here. The object of this is not to keep new cars from being parked, it's to keep junk cars off of somebody's property, that is the object of the requirement.

MR. LUCIA: You're right but the problem is the Town to protect the Town residents it so happens to be broad enough to cover his type of operation and he's coming to this board asking for relief on a basis that I am not loading up my lot with a bunch of hulks, I'm storing new vehicles, can you give me an ordinance but the point is well taken.

MR. LANGANKE: We should try to make that part as easy as possible.

MR. TORLEY: I'll defer to my attorney whether it can be as an area variance I'd be happy if it can be done as an area variance, I'm not sure it can be.

MR. LUCIA: Honestly, area variances always have to deal with numbers, you're seeking relief from some dimensional requirement in the ordinance, basically this sounds like a use variance to me but I'll be happy to listen to anybody else.

MR. LANGANKE: How many unregistered cars are you allowed on your property?

MR. BABCOCK: None.

MR. LANGANKE: Well, let's change the number then we'll work in numbers which will now give him so many.

MR. HOGAN: That is the Town Board has to change the code.

MR. BABCOCK: No.

MR. NUGENT: You can vary it.

MR. HOGAN: How many would you need?

MR. GAILLARD: We have the parking requirement in the



back that is filled properly so.

MR. BABCOCK: 25 is what he's got back there.

MR. BABCOCK: Maybe I can ask one question this might clear it up. These parking spaces were not really put in there basically for vehicle storage, we asked him to write that in there, they are part of the requirements of the parking spaces that he needs for his project whether he opts to park these cars there or opts to park the employees' cars there, that is up to him. In other words, the code required him to have a total of.

MR. GAILLARD: X amount of parking spaces and that is inclusive of employees, how many per service bay and whatnot so there can be, I can have my employees park back there with all the registered vehicles.

MR. BABCOCK: With the parking requirements for this size, he needs 115 parking spaces and that was the problem so we asked him to put more in back here to meet the requirement.

MR. GAILLARD: It wasn't very clear as to how to arrive at the parking requirements, correct?

MR. BABCOCK: Yes.

MR. GAILLARD: That was kind of a gray area.

MR. TORLEY: Which the out vehicle storage I'm happy.

MR. GAILLARD: Fine, done.

MR. LUCIA: Couple other aspects these are lower hurdles however of your application looking at Section A of the supplementary yard regulations for accessory buildings, I gather would be deemed accessory to the main showroom building, is that your interpretation, Mike?

MR. BABCOCK: Well, we used all the regulations for the principal building.

MR. LUCIA: The reason I raise it is if you look at

4814 A1A and 1A and C, the accessory building shouldn't be located in the front yard so the fact he's looking for front yard setback involves that part of the ordinance.

MR. BABCOCK: Well actually if you want to call it an accessory building, he only has to be ten feet from any property line but he can't be in the front yard.

MR. LUCIA: Also height comes in because the accessory building shouldn't be over 15 feet.

MR. BABCOCK: We considered it a principal building that is why it's got a front yard variance.

MR. WINGLOVITZ: In the commercial zone you can have 2 principal buildings.

MR. LUCIA: I just raise it for the board's consideration. However the board wants to deem it, it's fine as long as we've dealt with the issue, we can go forward.

MR. LUCIA: Two principal buildings.

MR. HOGAN: Yes.

MR. WINGLOVITZ: I think that is the correct way.

MR. BABCOCK: That is how this plan has been laid out.

MR. LUCIA: Board has no problems with that.

MR. NUGENT: No. He doesn't have a building height problem.

MR. BABCOCK: Not now, if it is accessory structure, he does.

MR. HOGAN: Lafayette Drive to the rear these are all vacant lots right to the rear of the new building?

MR. GAILLARD: No, they are houses back there but they stop going down the dead-end. I think the last house is right about here so they are right up in there.

MR. NUGENT: Any further questions?

MR. TANNER: I just have one and it really concerns last time the people were in here for a sign variance on the other piece of property you have, didn't we have a discussion at that time about the overhead sign on the building something was to be done with that? Do you remember that Jim?

MR. NUGENT: They were supposed to move it.

MR. TANNER: Has that been removed?

MR. GAILLARD: The front part of the sign is.

MR. TANNER: Wasn't the whole thing supposed to come down, my recollection is vague.

MR. NUGENT: I thought the entire thing was deemed to be unsafe and they were going to take it down.

MR. TANNER: Maybe if we can find the minutes of that and check tonight because I don't think we ought to go ahead with this until the last one is taken care of, that is my personal opinion.

MR. TORLEY: This wasn't the same piece of property.

MR. TANNER: It's not the same piece of property but this is the used car section and I just don't want to get into more variances when they haven't complied with the last one if they haven't.

MR. GAILLARD: From my recollection of that, what I had, I'm trying to think if we were going to be in the process of taking that down and the Town was, cause we want to do something with it to get it to actually take it down and whether to put up another structure and the decision was that existing structure there was to stay.

MR. TANNER: I honestly don't remember but I think we ought to clear it up before we go ahead and go on to more variances even though this is a--

MR. HOGAN: You're not suggesting we shouldn't move to a public hearing.

MR. TANNER: What I am suggesting is we just hold off on this until we find out about the status of the last variance, that is all.

MR. WINGLOVITZ: Could it be set for a public hearing and in the interim?

MR. TANNER: I don't have a problem with doing that but we need to clarify that.

MR. NUGENT: In the interim, we have it cleared up.

MR. TANNER: I just think we need to finish up with one set of variances before we start granting another set, that is all.

MR. LUCIA: The control the board has if it is resolved to the board so by the time of the public hearing we can just adjourn the public hearing, give you time to research the minutes and do whatever you have to do.

MR. LUCIA: I don't recall myself there was a safety issue which first came in.

MR. TANNER: That is my major concern, I do remember there was a safety thing.

MR. NUGENT: They brought it up.

MR. GAILLARD: We wanted to take it down but for some reason taking it down it was decided that it was to be re-faced or whatnot but we kept it up there in the best interest from my recollection.

MR. TANNER: We can just refer to the minutes and see what it says.

MR. WINGLOVITZ: I'll get in touch with Mike and resolve it.

MR. BABCOCK: You need to talk to Pat.

MR. NUGENT: I'll accept a motion.

MR. TANNER: Make a motion we set them up for a public hearing.

MR. HOGAN: Second it.

ROLL CALL

MR. TORLEY	AYE
MR. NUGENT	AYE
MR. TANNER	AYE
MR. HOGAN	AYE
MR. LANGANKE	AYE

MR. WINGLOVITZ: Anything additional, short form EAF?

MR. LUCIA: When you come back, we'd like to see copy of the deed and copy of the title policy for the property. We'd like to see some photographs of the property. You'll need two checks, one for \$50 application fee and second for \$250 deposit against Town consultant review fees in connection with processing of your application.

MR. WINGLOVITZ: Short form EAF?

MR. LUCIA: Not on an area variance. Give you a copy of 267B of the Town Law, just put an arrow in the margin there, if you would speak to the five factors on the area variance when you come back, I'd appreciate it.

-----X

In the Matter of the Application of

TOYOTA OF NEWBURGH, INC.

DECISION  
GRANTING AREA  
VARIANCE

#93-20.

-----X

WHEREAS, TOYOTA OF NEWBURGH, INC., 96 Route 9W, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 12 ft. front yard variance in order to construct a second principal building in addition to the existing principal building, which will be used for additional service and office area, at the above location in an NC zone; and

WHEREAS, the applicant's aforesaid premises are located in both the NC zone and the R-5 zone since the zoning district boundary passes through the applicant's premises. The proposed construction which is the subject of this application is located on the part of the premises that lies in the NC zone; and

WHEREAS, the applicant previously submitted to this Board an application for use/area variances, and an application for sign variances, both affecting the subject property, and both applications were granted by decisions of this Board dated December 9, 1985 and January 23, 1990, respectively; and

WHEREAS, a public hearing was held on the 12th day of July, 1993, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the applicant was represented at said public hearing by Don Benvie of Tectonic Engineering Consultants, P.C., and by George Gaillard, President of Toyota of Newburgh, Inc. and Richard Gaillard, also of Toyota of Newburgh, Inc., all of whom spoke in support of the application; and

WHEREAS, there were no spectators present at the public hearing; and

WHEREAS, there was no opposition to the application before the Board; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant is seeking permission to vary the provisions of the bulk regulations relating to front yard in order to construct a second principal building at its

dealership located on Route 9W in an NC zone.

3. The evidence presented by the applicant substantiated the fact that a variance for less than the allowable front yard would be required in order to allow the construction of the second principal building at applicant's dealership to be used for the expansion of the service and office area, which otherwise would conform to the bulk regulations in the NC zone.

4. The evidence presented on behalf of the applicant indicated that the applicant is proposing to construct a second principal building of 10,000 sq. ft. at its site. Said proposed building will be free-standing and not connected to the present principal building. Said proposed building is deemed a second principal building, and not an accessory building because of its size and because it will house additional service and office/parts areas, which are integral parts of the applicant's principal use of the site.

5. The evidence presented on behalf of the applicant further showed that the subject parcel is "L" shaped and is bounded on all sides (except for the top of the "L") by streets, and in addition the parcel is bisected by a paper street (which has been dedicated to the Town of New Windsor).

6. The applicant proposes to locate its second principal building on the front portion of its parcel, near NY Route 9W, on the part of its lands which are located in the NC zone. The proposed use of the said second principal building is a permitted use in the NC zone if the required special permit is granted by the Planning Board.

7. The evidence presented on behalf of the applicant also indicated that it is necessary for the applicant to construct an additional service area because of requirements imposed upon applicant by Toyota Motor Sales, U.S.A., for which applicant is a franchised dealer. The layout of the service building must conform to Toyota's standard plans, which are based upon prescribed stall widths and aisle widths, and which in turn dictate the required building width.

8. Given the constraints imposed by the parcel shape, the multiple front yards, the zoning district boundary, and the required size of the proposed building, it is the finding of this board that the proposed location for this second principal building is the only practical location therefore on the parcel.

9. The applicant is applying for a 12 ft. front yard variance because the proposed second principal building is to be located only 28 ft. from Lafayette Drive. Although Lafayette Drive borders what, for practical purposes, would normally be considered the rear of the applicant's property, it is considered a front yard under the Zoning Law of the Town of New Windsor, New York, and the required front yard depth is 40 ft. in the NC zone.

10. The evidence presented on behalf of the applicant further indicated that the building could not be turned or

otherwise located on the parcel so as to eliminate the need for a variance or reduce the variance requested. It appears that alternate locations would increase the magnitude of the variances needed.

11. The evidence presented on behalf of the applicant indicated that if applicant were to apply for a lesser size building, in order to conform to the bulk regulations, this would result in a building which would not be functional and would not conform to the size and layout of the service area which is deemed necessary at this site by Toyota Motor Sales, U.S.A. The proposed building size and footprint are the minimum deemed necessary by the applicant for an efficient and profitable operation.

12. The evidence presented by the applicant indicated that the neighborhood surrounding the subject site is devoted to mixed commercial and retail services as well as to residential use. The properties in the neighborhood fronting on NYS Route 9W (a divided four-lane highway) are used for a restaurant, motel, funeral parlor, commercial catering establishment, retail stores, auto and boat sales, auto body shop, service station, tennis and health club and bowling alley. The properties in the neighborhood to the rear of the subject property are devoted to residential use and to New York State owned mixed recreational-greenway-conservation uses.

13. It is the finding of this Board that the proposed second principal building, which will be devoted to a use permitted in the NC zone, if the required special permit is granted by the Planning Board, will expand the scope of the applicant's service and office operations but will not generate substantially greater impacts on the neighboring properties than are presently generated by the applicant's operations on the sites.

14. It is the finding of this Board that, given the constraints of the site, the proposed location for the second principal building is the only practical and suitable location therefore and has the least adverse impacts on the neighborhood and the applicant.

15. Given these factors, it is the finding of this Board that the proposed addition will not have an adverse effect on property values in the neighborhood.

16. The evidence presented by applicant substantiated the fact that the variance, if granted, would not have a negative impact on the physical or environmental conditions in the neighborhood. The dealership has been located in the area since the early 1980's and since there were no spectators appearing at the public hearing, this is a good indication that adjacent neighbors do not harbor adverse opinions regarding the applicant's present operations or its proposed construction.  
~~dealership.~~

17. It is the finding of this Board that the proposed front yard variance is not unreasonable and will not adversely impact



the public health, safety and welfare.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties. The parcel is presently being used for uses permitted in the NC zone, either by right or by special permit of the Planning Board, and the proposed construction is a permitted use, if the required special permit is granted by the Planning Board, and is consistent with the character of the neighborhood.

2. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

3. The requested variance is not substantial in relation to the bulk regulations.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the applicant faces in conforming to the bulk regulations is not self-created. The siting of the building with double frontage requires the applicant to meet the more stringent requirements of two front yard setbacks instead of the single setback. If this were a rear yard, applicant would easily meet this requirement, but because of the configuration of the lot with respect to the existing roadways, applicant cannot meet that requirement and must seek a front yard variance.

6. It is the finding of this Board that the benefit to the applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

7. It is the further finding of this Board that the requested variance is the minimum variance necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested variance.

NOW, THEREFORE, BE IT

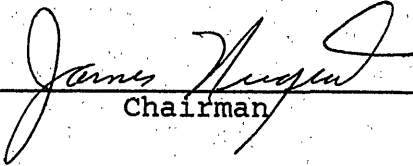
RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 12 ft. front yard variance for construction of a second principal building in addition to the existing principal building, which said second principal building will be used for additional service and office/parts area at the Toyota of Newburgh, Inc. dealership, at the above location in an NC

zone, as sought by applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: October 25, 1993.

  
Chairman



1763

# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

(914)563-4630

Date: October 25, 1993.  
FAX: 914-563-4693

RE: ZONING BOARD OF APPEALS - APPLICATION # 93-20.

Dear ZBA Applicant:

After computation of the consulting fees that were posted with your application before the Zoning Board of Appeals, the Board found that there are additional fees due and owing in the amount of \$ 257.96. (A copy of the computation list is attached).

In order to obtain a copy of your formal decision, this amount will have to be paid immediately.

Please forward a check in the above amount and I will be happy to furnish an executed copy of the formal decision.

Very truly yours,

A handwritten signature in cursive script that reads "Patricia A. Barnhart".

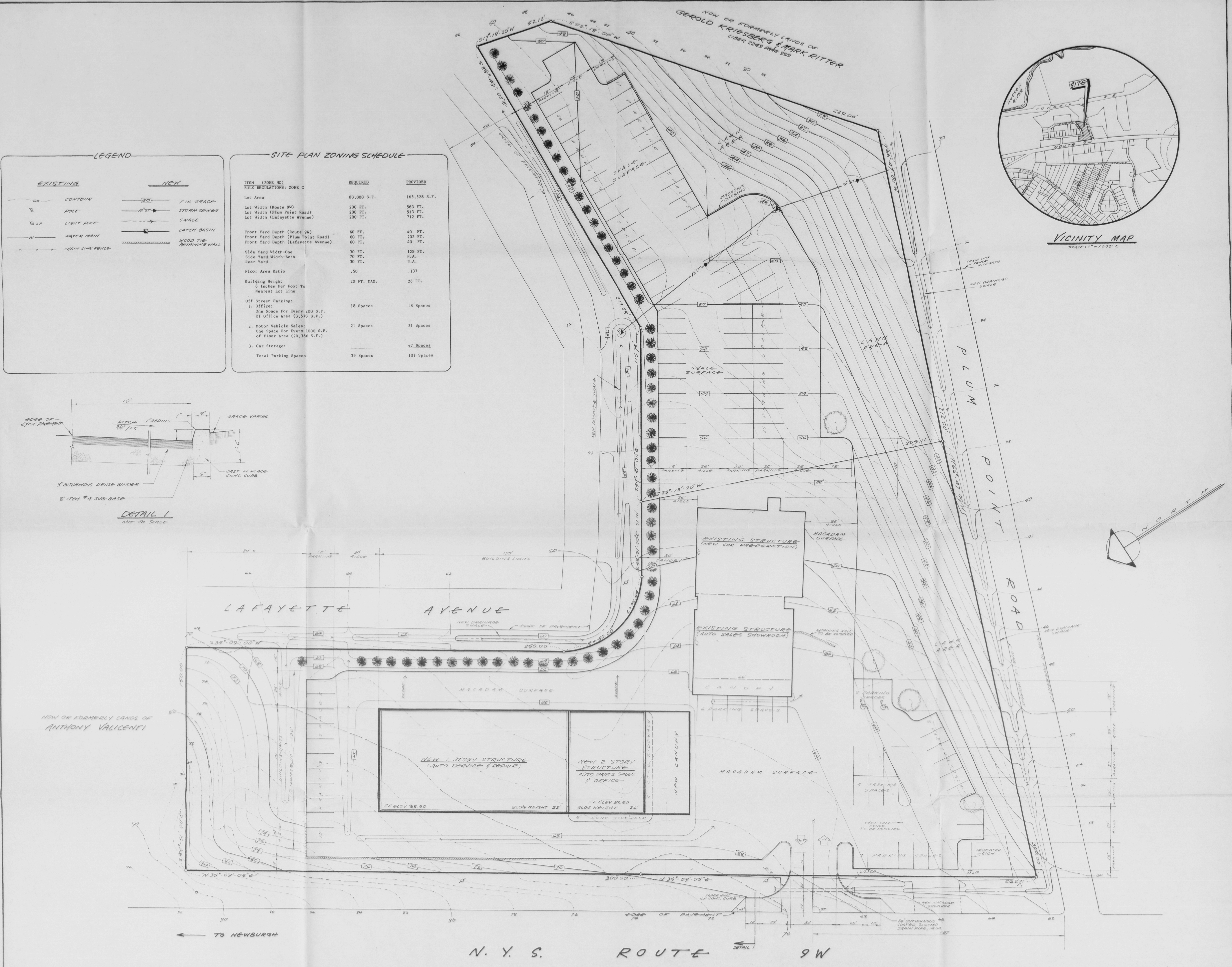
PATRICIA A. BARNHART, Secretary  
Zoning Board of Appeals

/pab

Attachment

(ZBA DISK#7-031292.FEE)





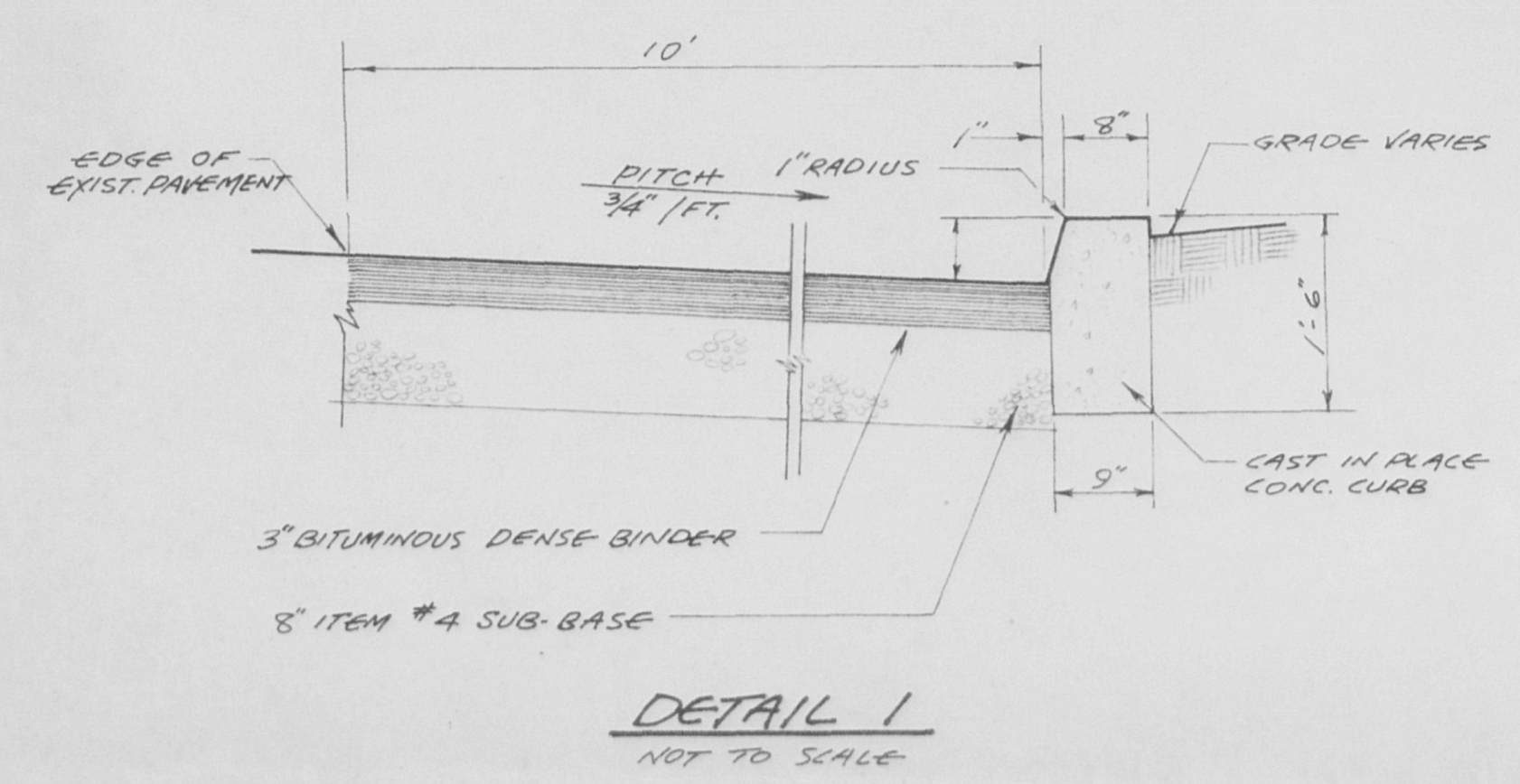
VICINITY MAP  
SCALE: 1" = 1000'

LEGEND

EXISTING	NEW
60' CONTOUR	60' FIN. GRADE
8" POLY	18" STORM SEWER
8" LP LIGHT POLE	SWALE
W WATER MAIN	CATCH BASIN
CHAIN LINK FENCE	WOOD TIE RETAINING WALL

SITE PLAN ZONING SCHEDULE

ITEM (ZONE NC)	REQUIRED	PROVIDED
BULK REGULATIONS: ZONE C		
Lot Area	80,000 S.F.	165,528 S.F.
Lot Width (Route 9W)	200 FT.	563 FT.
Lot Width (Plum Point Road)	200 FT.	513 FT.
Lot Width (Lafayette Avenue)	200 FT.	712 FT.
Front Yard Depth (Route 9W)	60 FT.	60 FT.
Front Yard Depth (Plum Point Road)	60 FT.	202 FT.
Front Yard Depth (Lafayette Avenue)	60 FT.	40 FT.
Side Yard Width-One	30 FT.	128 FT.
Side Yard Width-Both	70 FT.	N.A.
Rear Yard	30 FT.	N.A.
Floor Area Ratio	.50	.137
Building Height	20 FT. MAX.	26 FT.
6 Inches Per Foot To Nearest Lot Line		
Off Street Parking:		
1. Office:	18 Spaces	18 Spaces
One Space For Every 200 S.F. Of Office Area (3,570 S.F.)		
2. Motor Vehicle Sales:	21 Spaces	21 Spaces
One Space For Every 1000 S.F. of Floor Area (20,386 S.F.)		
3. Car Storage:		47 Spaces
Total Parking Spaces	39 Spaces	101 Spaces



Shaw Engineering Consulting Engineers 162 Grand Street Newburgh, N.Y. 12550	Drawing: SITE PLAN NEW BUILDING FOR TOYOTA OF NEWBURGH ROUTE 9W NEW WINDSOR, N.Y.	Drawn By: VA	Project No. 8526
		Checked By: VA	
Scale: 1" = 20'		Date: 9-23-1985	
ISSUE	REVISION	DATE	